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COMMISSION ON SUSTAINABLE DEVELOPMENT
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Agenda item 5 (b)

DECISION-MAKING STRUCTURES, WITH PARTICULAR REFERENCE TO AGENDA 21

Draft decision submitted by the Chairman

International legal instruments and mechanisms
(Chapter 39 of Agenda 21)

1. The Commission on Sustainable Development, having examined the report of the Secretary-General on international legal instruments and mechanisms (E/CN.17/1996/17 and Add.1), welcomes the progress made in reflecting the integrated nature of sustainable development in international legal instruments and in the further development of international law related to the implementation of Agenda 21.

2. The Commission takes note of the report of the Expert Group on the Identification of Principles of International Law for Sustainable Development, which was made available to the Commission as a background document, and expresses its appreciation of the work of the Expert Group, which was convened by the Department for Policy Coordination and Sustainable Development of the Secretariat.

3. The Commission recalls that at its second session it requested the United Nations Environment Programme (UNEP) to study further the concept, requirements and implications of sustainable development and international law; welcomed the adoption by the Governing Council of UNEP of decision 18/9 for the further development of international environmental law aiming at sustainable development; and noted with appreciation the steps undertaken by UNEP towards the review of the Montevideo Programme for the Development and Periodic Review of Environmental Law scheduled for 1997 as an important contribution to achieving the tasks set out in Agenda 21.

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4. The Commission recognizes the potential value of identifying generally recognized principles of international law as they pertain to sustainable development and decides to keep this issue under review at its session in 1997 with a view to its further consideration by the General Assembly at its special session, and to take into account the results of the review of the Montevideo Programme, as appropriate.

5. The Commission calls upon Governments to consider, as appropriate, the work of the Expert Group in the development of both national legislation and national policies for sustainable development, and requests Governments to provide information on their experiences in this regard.

6. The Commission considers flexible approaches as important in international law-making, as they allow international consensus to develop, especially under new scientific and technical information, and recognizes the positive role of framework conventions and of non-legally binding instruments as steps in the evolution of international rule-making related to sustainable development.

7. The Commission emphasizes the necessity, as recognized in UNEP Governing Council decision 18/9, of further exploring, in the interest of sustainable development, mechanisms for dispute settlement or avoidance and, with the aim of preventing international disputes, for facilitating the implementation of international environmental instruments by assisting and encouraging parties to fulfil their obligations and commitments, and notes that, in the case of several international environmental instruments, such mechanisms have either become operative, have been established, or are at present under discussion.

8. The Commission urges the international community to continue to develop procedures and mechanisms that promote informed decisions, mutual understanding and confidence-building with a view to avoiding or resolving disputes.

9. In this context, the Commission notes the importance of compliance and monitoring mechanisms of international agreements, including reporting requirements, and stresses the importance of national and local capacity-building aimed at improving compliance, monitoring, inspection and enforcement of international obligations.

10. The Commission recommends the exploration of more effective participation of major groups in the elaboration of international legal instruments and mechanisms in the field of sustainable development.

11. The Commission recognizes the administrative burden imposed, particularly on the developing countries, by the implementation of international agreements, and recognizes the need for consolidation and integration of procedures, and for cooperation among the secretariats of different conventions to this end.